NOTES ON MUNICIPAL GOVERNMENT.

AMERICAN CITIES.

Greater New York.—*Civil Service System.* The recent decision of the Court of Appeals of New York has thrown the whole civil service system of the city of New York into a condition of uncertainty; a situation which serves to illustrate the unsatisfactory relations existing between the state and the municipality and the carelessness of the state legislature in passing laws without reference to their influence upon existing legislation dealing with the same subject. The question arose through the removal of the superintendent of city hospitals on April 1, 1898. Prior to March 5 this position had been placed in the schedule not subject to competitive examination. On March 31, that is to say, one day before the removal of the superintendent, a new civil service law of the state went into effect, which provided that "if a person holding a position subject to competitive examination shall be removed or reduced, the reasons therefor shall be stated in writing and the person so removed have an opportunity to make an explanation, and further, that the civil service regulations of the cities should be approved by the State Civil Service Commission." The contention of the removed official was that inasmuch as the rules under which his position had been transferred to the exempt class were not approved by the state commission in the manner required, they became inoperative on March 31, and that the position was thereby restored to the competitive class, from which removals might be made only in the manner prescribed by law. The decision of the court, which upheld the position of the Municipal Civil Service Commission, was based upon two distinct grounds. In the first place the court holds that the charter of Greater New York contains a special and exclusive system for classification and examinations for the civil service and that this charter manifests deliberate intention on the part of the legislature to take the city of New York out of the general civil service law of the state. The act of 1898 was intended to amend the general state law, was prospective in its operation, and while it applied to all the cities of the state it left the city of New York under its original charter system for want of apt language to make the act operative upon the charter provisions. "Where a local and special statute covers the entire ground and constitutes a complete system of provisions and regulations, which the general statute, if allowed to operate, would alter, the settled rule is that it is not to be

deemed repealed except the intent to repeal is clearly emphasized." To support this a number of cases are cited.

The second principle upon which the decision rests, and which in reality furnishes the basis for the opinion of the majority of the court, is that the regulations and classifications of the municipal commission were valid and that even if the law of March 31 did apply to the city, there remained a further period of two months after March 31 for the submission of such rules to the state board for approval, and that still another month was allowed to the state board in which to approve the same; that during this whole period of three months, or in other words, down to the first of July, 1898, such rules remained valid and effective, and that as the position held by the plaintiff was classified under these rules in a schedule exempt from competitive examination, and as his removal occurred on April 1, such removal was regular.

The unsatisfactory wording of the opinion has created considerable doubt as to whether the court means to apply the general state act of 1898 to the city of New York. The corporation counsel holds, and would seem to be upheld by the tenor of the first part of the decision, that the local civil service board is free to establish its own rules independently of the state board. The state commission on the other hand claims that the decision refers only to the state of affairs prior to July 1 and does not decide the question whether the local appointments since that date are legal or not. In this view the commission is seconded by the New York Civil Service Association and finds justification in the latter portion of the decision in which the court says that the act of 1898 cannot have a retroactive effect, that regulations adopted by municipal commissions remain in force until after the three months from March 31, 1898, have elapsed.

"Where, as in the present case, a new rule is laid down by the legislative body for the future administration of the civil service system in cities throughout the state, it must logically follow, that acts done under the authority of the law in force, prior to the time when the new law takes effect, are valid. The regulations of the New York Civil Service Commission of March 5, 1898, were validly made and being existent when the act of 1898 was passed, were in express terms recognized; but they were required to be further approved by the state board. Hence what had been done under their authority was lawfully done, and was not affected." Adopting this second portion of the decision, which was specifically stated to be the ground upon which the majority of the court concurred in the opinion, the New York Civil Service Association has asked the city controller not to issue warrants for the payment of salaries to persons holding

appointments subsequent to July 1, 1898, under rules which have not been approved by the State Civil Service Board.

The Court of Appeals has since decided that the rules of the local civil service boards must have the approval of the state board.

The whole question has been practically settled by the recent passage of a new Civil Service Act, which repeals the so-called "Black Act," which had been designed to take the "starch out of the civil service." The new law requires that the rules in force in New York City, as well as in other cities, shall conform to fixed and uniform standards and that they shall be approved by the state commission. The wisdom of the new measure is attested by the fact that under the administration of the civil service law of the present New York board the competitive system was maintained in form rather than in fact. In a recent publication of the council of the City Club, of New York, it was shown that seven hundred appointments were made without examination to so-called confidential positions; sixteen hundred were made under temporary certificates, the majority of which are still continued; five thousand were appointed as "laborers," and many of these were promptly assigned to duties which should be performed only by persons who have passed the competitive examination. In other words, a regular procedure for the violation of the existing law has been developed. In the new law adequate provision has been made for exemptions from classification or examination. Under the definition of the term "civil service" the officers elected by the people, officers appointed subject to confirmation by the senate and all judicial officers are excepted. Further exceptions are made in the case of heads of departments, election officers, commissioners of deeds, deputies and secretaries, and principals and teachers of the public schools. The law still leaves to the mayor the appointment of city commissioners, but gives to the state commission the power to amend or suspend rules made by the city commission if, after explanation by the city commission, it appears plainly that the rules did not carry out the purposes of the law. The state commission can furthermore remove local commissioners for proved inefficiency or misconduct, but only by unanimous vote after a full hearing on written charges and with the approval of the governor.

New York City.—*Rapid Transit.** The various plans for improved transit facilities in New York City have received a severe check because of the antagonistic attitude of the present city administration to the construction of an underground system. Legal difficulties have also arisen, owing to the uncertainty of the relation of such system in

* For the discussion of the earlier stages of the rapid transit plans, see Notes on Municipal Government in the ANNALS for March and May, 1898.

the borough of New York to the greater city. Article VIII, Section 10, of the Constitution of New York, provides that "no county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of such county or city subject to taxation . . . . and all indebtedness in excess of such limitation except such as may now exist, shall be absolutely void, except as herein otherwise provided." The Rapid Transit Commission now claims that this provision does not apply to the county of New York, because the city and county were already coterminous when the constitution was adopted. Furthermore, under the Greater New York organization the county of New York is not coterminous with the city, inasmuch as the Greater New York includes several counties. Interpreting the constitutional limitation as inapplicable, the commission holds that the county of New York has the power to incur an indebtedness of ten per cent of its assessed valuation, which, added to the ten per cent of the borough of New York, would place the city's real borrowing capacity at twenty per cent of the assessed valuation. The case of the East River Savings Institution, decided by the Court of Appeals, in *136 New York, 52*, is cited, in which it was held that the borough of Brooklyn and King's County could each borrow up to ten per cent of their assessed valuation. Unless this contention is upheld, the municipal construction and operation of the road will be practically impossible, as the city would not be able to increase its indebtedness sufficiently to meet the expenses of construction. Under any circumstances it would be necessary to so amend the charter of Greater New York as to make the road an asset of New York County alone.

Another course open to the commission is to obtain from the legislature the power to grant the franchise for the construction of an underground railroad to a private corporation. This, of course, would involve the abandonment of municipal construction, which had been favorably passed upon at a popular election. In a memorial recently presented to the state legislature the commission asks for this power in case financial limitations will not permit the city to undertake the work.

Towards the end of March the Metropolitan Street Railway Company submitted to the commission a proposition for the construction of the underground railway under the following conditions:

1. The routes and plan of construction prescribed by the board and approved by the municipal authorities and Appellate Division to be adopted, subject only to modifications in detail. The plan includes tunnel construction except at the extreme upper part of the road.

2. Construction to begin at once on the section of the road running from the City Hall through Elm street, Fourth avenue, Forty-second street, Broadway and the Boulevard to a point above Fort George, and that section to be completed within three years.

3. The remainder of the road upon the routes prescribed by the board to be built within two years after the grantee shall earn five per cent upon the actual cost of the first section.

4. Passengers to be carried the entire length of the road for a single fare of five cents, and to have the right to a transfer from or to any part of the Metropolitan system for an additional fare of three cents. The fare upon express trains running at a rate not less than twenty miles an hour and, for at least two miles below Forty-second street, at not less than thirty miles an hour, to be ten cents, with right of transfer from or to any part of the Metropolitan system without additional charge.

5. The grant to be in perpetuity.

6. The grantee to be entitled to use side galleries and other spaces in the tunnel not necessary for railroad purposes for any wires, tubes or conductors authorized by law, and to receive rentals therefor.

7. Rental to the city to be five per cent of gross receipts, provided that the grantee shall first receive five per cent net upon the cost of construction, such cost to be subject to proper scrutiny by the board. The grantee to be exempted from taxation until it shall earn five per cent.

The Rapid Transit Board commenting on this proposition says, "Under the law as it now stands the board is bound to construct with the funds of the city or not to construct at all. The board is convinced that municipal construction is now, and perhaps, for a long time will be, impracticable. If rapid transit is to be secured now, the board must have power to make a grant to private capitalists."

This proposition of the Metropolitan Railway Co. has met with considerable opposition, particularly the provision granting a perpetual franchise. In view of this opposition the company has withdrawn the offer on the ground that it would only be prepared to undertake such a vast enterprise assured of the good-will of the citizens.

*The Legislature and New York City.** During the present session of the legislature the usual mass of bills relating to the city of New York has made its appearance. Few only of these bills are essentially public bills affecting the whole city. Most of them, whatever their form, are designed to benefit certain persons, or certain small parts of the city, in entire disregard of the fact that the cases covered by them are fully provided for by the charter. Even those bills which are honestly intended to make some improvement in the local law relating to the entire city are, for the most part, drawn with but little care for the provisions of law now in force. Bills of both these classes

* Communication of James W. Pryor, Esq., Secretary City Club, New York City.

threaten to add to the great uncertainty and confusions of the special laws relating to the government of New York City. Fortunately the governor may be trusted to appreciate this fact, and to veto most of the ill-considered local bills that may be sent to him by the legislature.

The Amsterdam Avenue Fight. The struggle in the legislature over the question whether the laying of four underground trolley tracks in Amsterdam avenue shall be prohibited by legislative enactment, has excited more interest in this city than any other question which has presented itself at Albany this year. Two or three very large and earnest mass meetings have been held by the citizens of that part of the city which is directly concerned, and a delegation of several hundred attended a hearing at Albany, in behalf of a bill pending before the legislature to make the proposed arrangement of tracks illegal. The familiar process of confusing the issue by compromise and amendment has been employed so successfully by the opponents of the bill, that the few remaining days of the session may not see the passage of measure.

Pennsylvania.—*Franchises.* A bill of considerable importance to the city of Philadelphia, prohibits any city of the commonwealth, co-extensive in boundary with the county, from leasing or selling the franchise of any plant now in use, or that may hereafter be established for the purpose of supplying the people with heat, light or water, without first submitting the question to a popular vote of the qualified electors of such city.

Philadelphia.—*Charter Amendment.* A bill has been recently introduced into the state legislature, by the Hon. Clinton Rogers Woodruff, to reduce the number of members in both branches of councils and to change the system of election in the upper branch from the district to the general ticket plan. The bill provides for the election of a common council of fifteen members and of a select council on the basis of one representative for every six thousand of taxable inhabitants. This change, which is in harmony with the general tendency of municipal reform, will reduce the present select council from thirty-seven to fifteen members. The bill furthermore provides that the committees of select council shall be created through election by members of the council and not by appointment by the president. The common council to be one-third of its present size.

Cincinnati.*—*Charter Revision.* The Ohio Municipal Code Commission, appointed in pursuance of an act of the last legislature, has been in session in various parts of the state, and from the public expressions of the commissioners, all friends of good government will regard the proposed measure with satisfaction. It provides for home

* Communication of Max B. May, Esq.

rule for cities, and adopts the federal plan of government and the merit system. There will be four administrative departments, the Departments of Accounts, of Law, of Public Works and of Police. These several departments will be under the direction of one man, instead as now of bipartisan boards. The common council will be replaced by a smaller body, part of which will be elected at large, part by wards; the members will be paid a salary, and their power limited strictly to legislative subjects. The only officials to be elected will be the mayor, treasurer, police court judge and clerk, and councilmen. Nominations for municipal offices shall be made by petition only, and the names of all candidates must be printed alphabetically under each office upon the official ballot, without any distinguishing mark of party affiliation or otherwise. The bill will be introduced at the beginning of the legislative session in January, 1900, and a vigorous campaign made for its adoption.

California.*—*Taxation of City and County Bonds.* In California at present county and municipal bonds are subject to taxation. Of course the original purchasers get them for less on this account. The theory is that what the counties and municipalities lose in this way will be more than made up by taxation. But the effect is not what was expected. In only ten counties of the state are bonds assessed, and last year less than $15,000 were collected from this source.

The chairman of the committee on municipal affairs of the legislature which has just adjourned discovered bonds to the amount of more than thirteen millions dollars on which taxes should, according to the present law, be paid. And it is by no means certain that further investigation would not have revealed the existence of other bonds of great aggregate value which escape assessment. But by the failure to assess and collect upon the known thirteen millions the state loses annually about $250,000.

The efficient chairman of the committee, Mr. E. K. Taylor, thinking it would be better to repeal the law, has secured the passage of a bill directing that the question of such repeal shall be submitted to the people for their decision at the next election. It is certain that the people receive far less for their bonds than they otherwise would because they are placed upon the market on the theory that the bondholders are to pay taxes upon them.

San Francisco.*—New Charter.*† On January 19, 1899, the Legislature of California formally approved the new charter for San Francisco, which had been adopted at a special municipal election held in that city on May 26, 1898. This action was the culmination of a long-

* Communication of George R. Dodson, Esq., Alameda, California.

† Communication of Hon. Clinton Rogers Woodruff.

continued effort on the part of the Merchants' Association to secure a new charter for the city.* Although defeated several times at the polls, it did not give up the fight, and in September, 1897, to carry out more effectively its object, the association organized a Charter Commission of one hundred, the first work of which was to secure the nomination and election of a board of fifteen free-holders pledged to consider the whole question from a broad municipal point of view. This board prepared a charter which was adopted by popular vote in May, 1898, and has now been approved by the legislature. The charter goes into effect January 1, 1900. It provides for the election by popular vote of eighteen supervisors, a mayor, auditor, city attorney, district attorney, treasurer, assessor, tax collector, recorder, public administrator, county clerk, sheriff, coroner, five justices of the peace for two year terms, four police judges and a superintendent of schools for four years.

The mayor, who is ex-officio president of the Board of Supervisors, has general supervision of all the departments of municipal government and the books of each department. It is his duty to see that the departments are honestly and economically administered; and that the terms of the franchises granted are faithfully executed. It lies within his power to postpone final action upon any franchise until it shall have been ratified or rejected by the people at the next following election. The mayor also has power to appoint three commissioners of public works, four police commissioners, four fire commissioners, four school directors, five health commissioners, five election commissioners, five park commissioners and three civil service commissioners; the terms of most of these being for four years.

While the first mayor under the charter will appoint all the commissioners of the several boards, the terms of these members will be so arranged that one will expire each year, so that no subsequent mayor will be able in the ordinary course of events, to appoint more than two members of any board. Under the present charter, the mayor is a mere figurehead with scarcely any substantial power; under the new charter he will be a distinct factor in its municipal government, both through his power of appointment and through his power of supervision, as well as his power to insist upon a submission of franchise ordinances to the voters for ratification.

The legislative power of the city and county is vested in the board of supervisors, whose membership is increased from twelve to eighteen. All are to be elected at large, and each supervisor will receive $1,200 a year salary, and be required to give a bond in the sum of $5,000 for the faithful performance of duty. The mayor is the

* See ANNALS, Vol. xi. Notes on Municipal Government, pp. 284, 285.

presiding officer of the board. The ex-mayors will be entitled to seats therein, but without vote or compensation.

The charter makes it incumbent on the supervisors to procure every two years, beginning with the year 1901, estimates of the actual value of the water, gas, electric light, and power and steam works, telephone lines, street railroads and other public utilities; and to submit to the people at the next following election the question whether there shall be municipal ownership and operation of the same. Upon petition of fifteen per cent of the electors, the supervisors *must* submit to the vote of the people a proposition for the acquisition of any public utility desired, and the mayor may also submit such a proposition. Should a majority of the electors determine to take over any of the properties, their control will thereafter come under the jurisdiction of the Board of Public Works. The supervisors are empowered to submit the question of municipal ownership to the people at any time without petition.

Pittsburg.*—*New Charter.* In 1895, as a result of the reform declarations of the Republican state platform, a movement was instituted in Pittsburg to secure the adoption of a new charter for that city, the Citizens' Municipal League and the Chamber of Commerce taking the lead. As a result a bill, known as the Bruce Charter, was prepared for introduction at the 1897 session of the Pennsylvania Legislature. This charter was given special prominence because it was drafted by a member of the committee of five selected by the Republican State Committee to draft the necessary legislation to carry out the platform pledges. No sooner, however, had the charter which applied to cities of the second class, including Pittsburg and Allegheny, been introduced than the politicians of Allegheny vigorously objected, claiming that the people of that city were entirely satisfied with their form of government and desired no change. To meet this objection a bill known as the "Ripper Bill" providing for the reclassification of the cities of the commonwealth and transferring Pittsburg from the second class to the first class was introduced. It also contained the remarkable provision that within thirty days of the passage of a city from one class to another all the offices in said city should thereby become vacated and the new officials provided for under the new form of government for the class to which the city was transferred should be appointed by the governor. Such a radical measure naturally provoked strenuous opposition which grew to such an extent that it resulted in the defeat of all of Pittsburg's reform legislation.

* Communication of the Honorable Clinton Rogers Woodruff.

The present charter minimizes the importance of the mayor and reduces his functions to the smallest possible degree. His appointing power is practically *nil*, being confined to the appointment of a messenger and clerk and five police justices. His veto can be overridden by a three-fifths vote of councils. There is no concentration of authority in any popularly elected officer and the whole plan is so devised as to make it impossible for the voters to reach those who are actually accountable, or to affect any change short of continuous or unremitting effort carried on for five or six years. At the 1899 session of the legislature, the Bruce Charter was re-introduced by Representative Creasy, a Democrat. It was negatived by the committee on municipal corporations and an effort to place the bill on the calendar by a direct vote of the House failed. Although it received a majority of the votes cast, it did not receive the necessary one hundred and three votes required by the rules. The Democrats voted solidly for it and some of the more independently inclined Republicans aided them. This practically ended the movement for the present session, but by no means ends the movement of the citizens of Pittsburg for that relief to which they believe they are entitled, not only by the promises made to them but by the actual condition of affairs. It is generally understood that the agitation will be continued by the Chamber of Commerce and the Citizens' Municipal League. As a result of the work thus far done considerable important information has been gathered and published bearing on the actual municipal conditions prevailing in the city. One pamphlet published by the Citizens' Municipal League, of which Oliver McClintock is chairman, presents a full statement of the case.

Detroit.—*Municipal Purchase of Street Railways.* The Governor of Michigan has recently approved the bill passed by the legislature, empowering the common council of Detroit to appoint three persons to constitute a board to be known as the Detroit Street Railway Commission. This commission is given power to acquire, upon such terms and conditions as it may deem advisable, by deed, lease or other satisfactory conveyance, any street railway or railways existing at time of passage of the act and lying wholly within or partly within and partly without said city. It may provide for the payment of rentals or other obligations, and also for a sinking fund for the discharge of any liens upon any of the property acquired by them, and may pledge the earnings and receipts of street railways for these purposes and may use the earnings in operating and maintaining the same, and may use any surplus in earnings in acquiring any bonds secured by lien upon the property so acquired, or may use such surplus in making needful extensions or betterments of said railways.

The commission is given power to employ a director, manager, superintendents, attorneys, etc. The members are required to give bond to the amount of $250,000 for the faithful performance of the duties of their office. The common council, in pursuance of this act, appointed Governor Pingree and two other prominent citizens of Detroit as members of the commission. Experts have been called in to appraise the value of the street railway property as well as its earning capacity, and it seems likely that before long the city of Detroit will inaugurate a municipal street railway service. The purchase price has been estimated by several persons at from twelve to seventeen million dollars.

FOREIGN CITIES.

Paris.*—*Public Pawn Shop.* The recent consideration by the Illinois Assembly of a law permitting the formation of pawnshops similar to the Collateral Loan of Boston, and the Provident Loan of New York, and the active steps taken by the Merchants' Club of Chicago to put the plan in operation renders the report of the fifth commission of Paris on the Mont-de-piété of special interest.† At present the pledge business of the French capital is carried on in a main building, three branch offices (*succursales*) and twenty-two supplementary offices (*bureaux auxiliaires*) distributed throughout the city, the entire being under the direction of one set of municipal officials. Its present unity, however, is not the fulfillment of a plan adopted at the time of its organization, but the result of the constant elimination of undesirable features. At first a rented building was occupied, but the success of the business soon required that a branch be provided, and with its continued growth further additions were necessary. In the meantime to give those living in the outlying portions of the city better service, commissioners were appointed who received pledges and conveyed them to the main or branch offices. So important were these commissioners that in 1839 they received over 91 per cent of the pledges. This plan was unsatisfactory. Since pledges of higher value were more remunerative the commissioners sought to locate in the better portions of the city, leaving those for whom the institution was more directly established with accommodations little better than before. Moreover, the fees charged by them, being largely fixed charges, were particularly heavy on pledges of small value. For these reasons the commissioners were gradually supplanted by the supplementary offices to their total exclusion in 1889. This naturally called for a great increase in rents or the purchase of valuable property, and gave rise to the question as to which of these methods

* Communication of Dr. W. R. Patterson, Iowa State University, Iowa City.

† Rapport au nom de la 5ieme Commission sur le fonctionnement du Mont-de-Piété.

was the more advisable. To the solution of this question, and indirectly the justification of the large expenditure already made for this purpose, the director was requested to supply data. His response was a detailed report, the review of which the commission embodies in its present report with recomemndations as to interest charges, payment of surplus proceeds from pledges.

The loss entailed by renting is evident. The proprietors are quick to recognize that after the authorities have spent a considerable sum to adjust a building to the needs of the business a change necessitates a considerable loss and hence refuse to renew the lease on the original terms. Figures are given showing that a new lease is seldom secured save at an advance of from 50 to 100 per cent on the original rental price. In many instances it has been deemed advisable to pay this advance, yet a sufficient number of changes have been made since 1856 to cost the institution for repairs, extra rents during time of transfer, etc., some 5,000,000 francs ($965,000), 92 per cent of which was extended prior to 1883 when the policy of purchase was practically adopted. Since this time the purchase of property has been sufficient to suppress an annual rental of 75,672.44 francs ($14,604.78) reducing the amount of rent paid at present to 21,125 francs ($4,077.12). As the cost of construction is not itemized it is difficult to determine the exact cost of this change. It appears, however, that the ground sites purchased in this period cost 907,663.50 francs ($175,179.05), and the construction of buildings, and the making of needed repairs, 826,935.19 francs ($159,598.49). This together with the property held prior to 1883 raises the total cost price of the property now owned by the institution to 10,509,203.01 francs ($2,028,276.18)—a sum considerably below the present valuation of the property.

The report deals with a number of interesting questions of minor importance. Of the 868,512.30 francs ($159,506.87), overplus derived from the business of 1894, 108,705.70 francs ($20,980.20) not claimed by the rightful owners was, in accord with the law, turned over to the *hospices civils*. The fees for appraisal remain as in previous years, ½ per cent on all loans made. In addition to this the appraisers receive 3 per cent of a 5 per cent auction fee for conducting the sale of unredeemed pledges, the remaining 2 per cent going to the institution. The rate of interest on common pledges remains at 6 per cent per annum with a fixed charge of 1 per cent, as adopted in 1887. Funds for these advances are still obtained at the reasonable rates of last year, 2.75, 2.5, 2.0, 1.5 per cent per annum on loans on deposits of 12, 9, 6 and 3 months respectively. Finally the budget for this year places the reeeipts at 104,154,600 francs ($20,101,837.80) and the expenses at 104,119,580 francs ($20,095,078.94) leaving an excess of 35,020 francs ($6,759.86).